

EXHIBIT F

Gary Bishop

July 27, 2005

Allentown, PA

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CERTIFIED COPY

In Re: PHARMACEUTICAL :

INDUSTRY AVERAGE WHOLESALE:

PRICE LITIGATION :

: MDL DOCKET NO.

-----: CIVIL ACTION #

THIS DOCUMENT RELATES TO: : 01CV12257-PBS

:

ALL ACTIONS :

-----:

Oral deposition of GARY

BISHOP, taken pursuant to notice, at the Four
Points Sheraton, 3400 Airport Road, Room 235,
Allentown, Pennsylvania 18109, on Wednesday,
July 27th, 2005, beginning at approximately
8:00 a.m., before David Walsh, Registered
Professional Reporter and Notary Public, there
being present:

Henderson Legal Services
(202) 220-4158

Gary Bishop

July 27, 2005

Allentown, PA

87

1 in the second sentence which says, "using
2 Links Machine through OTN and reorders not
3 coming up exact and are concerned about losing
4 money on reimbursements."

5 Could you go through that sentence and
6 tell me what is meant by "using Links Machine
7 through OTN", what does that mean?

8 A. OTN stands for Oncology Therapeutics
9 Network and OTN is probably the largest
10 provider of chemotherapeutic and supportive
11 care products for medical oncology offices.
12 Hence, the name Oncology Therapeutics Network.

13 And one of their technologies is called
14 the Links Machine and the Links Machine is a
15 dispenser of drugs that assists the individual
16 office in their inventory.

17 So, for instance, if they have an
18 Intron-A 50 million unit vial in their Links
19 Machine when they use it, the Links Machine
20 reorders that for them. However, it will also
21 act as an inventory control system to make
22 sure that the amount of drug dispensed from

Gary Bishop

July 27, 2005

Allentown, PA

88

1 the machine is actually being used and that's
2 the last part of that sentence about losing
3 money was they were utilizing an amount of
4 million units of Intron from their Links
5 Machine, but were not able to actually
6 dispense to the patient the same amount that
7 was being issued from the Links Machine.

8 Q. And did you know why -- was that a
9 problem or was there an error in either the
10 machine or the information or do you recall
11 what was the solution of that?

12 A. I do exactly. Kathy, who is the nurse
13 that presented this to me in that office, was
14 purchasing the 50 MIU or MU million unit vial,
15 which comes with one ML of diluent and is
16 meant to be a unit of use.

17 So, essentially she was buying the wrong
18 vial size. She was trying to get like three
19 different doses or two different doses at
20 22 million units, as it turned out here, and
21 they weren't -- with such low volume diluent,
22 she was unable to pull the whole 50 million

Gary Bishop

July 27, 2005

Allentown, PA

89

1 units. So, she would use two at 22 and say,
2 well, why can't I get -- where are the
3 additional six, for example?

4 And it just wasn't there. When you
5 start splitting an ML into a syringe, she
6 clearly had chosen the wrong vial size. She
7 was uneducated in terms of what vial she
8 should have been using.

9 Q. Okay. The next item, is that Dr.
10 Sieber?

11 A. Correct.

12 Q. And that's a date detailed of
13 January 9th, 2002?

14 A. Um-hmm.

15 Q. And there's a comment concerning, "big
16 issue with profit margins as well".

17 Do you see that?

18 A. Yes, I do.

19 Q. What was the big issue with profit
20 margins and how did you address that with this
21 doctor?

22 A. As you read on then, you'll kind of see

Gary Bishop

July 27, 2005

Allentown, PA

90

1 what I recommended. There is really nothing I
2 could do. I recognized that he had an issue
3 with what he considered to be margins on the
4 drug.. He was skeptical though as you look up
5 above as the rebuttals to the O'Donnell paper
6 based on numbers of patients and those
7 consulted for cystectomy.

8 My sense is that he probably just had a
9 preference to perform surgical cystectomy and
10 wasn't a big fan of the treatment to begin
11 with; however, there's nothing I could do in
12 terms of margin. I wrote the word big because
13 it seemed to be his number one objection and
14 what I showed on the very last sentence, as
15 you read, is that there was a company called
16 Florida Infusion with trans specials to many
17 of these physicians that were doing bladder
18 installations and I simply directed them that
19 purchasing the drug through Florida Infusion
20 may actually save them money on their
21 purchase.

22 Q. And how did you have information on

Gary Bishop

July 27, 2005

Allentown, PA

91

1 Florida Infusion and any potential cost
2 savings?

3 A. That's just public information. They
4 would fax to the offices, for example, the
5 dollar amounts of the vials that they were
6 charging. It was kind of like going into a
7 retail pharmacy and saying how much do you get
8 for a pill of Claritin? I mean it was just
9 public information.

10 Q. Would that information come through your
11 product manager or from Schering-Plough in
12 anyway?

13 A. No, it did not.

14 Q. Would you get any feedback from any
15 managers or the Schering-Plough supervisors
16 concerning the information that you provided
17 to Dr. Sieber relative to cost savings and
18 addressing issues of profit margins?

19 A. No, I did not.

20 Q. Now, as an oncology representative, who
21 is your supervisor?

22 A. Now?

Gary Bishop

July 27, 2005

Allentown, PA

92

1 Q. Yes.

2 A. David Peckman, P-E-C-K-M-A-N.

3 Q. And have you had other supervisors since
4 2001?

5 A. One.

6 Q. Who?

7 A. Mark Manzo. He was my hiring manager.

8 He hired me in oncology in October of '01.

9 Q. Do you ever get feedback from either
10 your managers or any other supervisors in
11 Schering-Plough relative to what you have
12 placed in call notes?

13 A. No, very little. It would only be on a
14 field contact if he happened to be with me in
15 the car and we opened up the lap top and we
16 looked at the call notes and I shared those
17 with him. Otherwise, no, it is for us. It is
18 really for us to establish the relationship
19 that we have with the office, the platform to
20 which we have established, and where we are
21 going to go forward with it.

22 Q. Have you ever been instructed by your

Gary Bishop

July 27, 2005

Allentown, PA

93

1 manager or any other supervisor at
2 Schering-Plough to delete or destroy any of
3 your call notes?

4 A. No, I have not.

5 Q. Have you ever been told by your managers
6 of Schering-Plough to destroy marketing
7 material?

8 A. No, I have not.

9 Q. Have you ever participated in the
10 destruction of marketing material that you
11 have used to detail Schering-Plough products?

12 A. No, I have not.

13 Q. Now, you referred a couple times to the
14 O'Donnell data?

15 A. Correct.

16 Q. Does that have anything to do with
17 pricing or profitability of any of the
18 products?

19 A. None, whatsoever. It was strictly a
20 protocol to treat a specific disease state, a
21 specific urologic cancer, bladder cancer.

22 Q. In the physician administered drug

EXHIBIT G

FILED UNDER SEAL

EXHIBIT H

FILED UNDER SEAL

EXHIBIT I

Debra Kane 30(b)6

Kenilworth, New Jersey

June 23, 2005

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 MDL NO. 1456
4 CIVIL ACTION: 01-CV-12257-PBS
5 Judge Patti B. Saris

6 IN RE: PHARMACEUTICAL INDUSTRY: DEPOSITION OF:
7 AVERAGE WHOLESALE PRICE :
8 LITIGATION :
9 : DEBRA KANE
10 : :
11 : :
12 : :
13 x-----x

14 C O M P U T E R I Z E D T R A N S C R I P T of
15 the stenographic notes of the proceedings in the
16 above-entitled matter as taken by and before
17 MARY T. NOVAK, a Certified Shorthand Reporter and
18 Notary Public of New Jersey, in the office of
19 SCHERING-PLOUGH, 2000 Galloping Hill Road,
20 Building K-6, Kenilworth, New Jersey on Thursday,
21 June 23, 2005, commencing at twenty-five minutes
22 after ten o'clock in the forenoon.

19 HENDERSON LEGAL SERVICES, INC.
20 WORLDWIDE COURT REPORTING
21 1120 G. Street N.W., Suite 1010
22 Washington, D.C. 20005

Debra Kane 30(b)6

Kenilworth, New Jersey

June 23, 2005

13 (Pages 46 to 49)

1 She'll explain the source of the lists I've given
 2 you for Number 5.

3 You've agreed to accept Number 7, documents
 4 in lieu of testimony.

5 MR. McNEELY: On all of the
 6 documents I understand that everything that -- my
 7 experience has been everything we practice is in
 8 good faith. I would reserve a final acceptance
 9 based upon an examination, reserve any rights if
 10 they were unsatisfactory, or if there's
 11 deficiencies in any of these paper productions, we
 12 reserve the right to come back and ask for either
 13 additional documents or a designated
 14 representative.

15 MR. KAUFMAN: Understood. I'm not
 16 agreeing to your doing it but I understand that
 17 and I don't think you're precluded from doing that
 18 by accepting these documents.

19 MR. McNEELY: I understand. I just
 20 want don't to give for the record that there's a
 21 blanket acceptance.

22 MR. KAUFMAN: I understand that.

46

48

1 tell me and if the process or procedure has
 2 changed historically, would you please give me a
 3 time reference?

4 A. Sure. Historically, the procedures around
 5 establishing introductory pricing for products was
 6 actually very vague. It was not -- there were no
 7 really standard operating procedures around it.
 8 So I think that pricing could come about, and it
 9 was maybe an iterative process, let's say either
 10 from the top down or the bottom up. The brand
 11 teams would have input into pricing as well as
 12 executive management. There wasn't really a lot
 13 of structure around the process. I could tell you
 14 that with our change in management, which took
 15 place in, I guess it was 2004.

16 Q. April 2003?

17 A. April 2003 and continued on through 2004.
 18 Just in terms of all our executive management team
 19 turning over there was an introduction to a
 20 process, RFC which stands for request for
 21 concurrence, which puts significant discipline
 22 around our establishment of the pricing as well as

47
 1 You haven't seen these documents before so you
 2 can't say whether they are what they purport to
 3 be.

4 MR. McNEELY: I think we're at a
 5 meeting of the minds.

6 MR. KAUFMAN: So it's Number 1,
 7 Number 4 and the source of the lists that were
 8 given as Number 5, and that's it.

9 MR. McNEELY: Okay.

10 Q. Miss Kane, I believe we're ready to
 11 talk to you again. With regard to areas of
 12 inquiry Number 1, and your attorney has described
 13 or designated the three physician administered
 14 drugs, and my questions, I'll start with the
 15 Intron-A.

16 Can you tell me how the prices are
 17 established on Intron-A?

18 A. I think anything that I could tell you
 19 establishing prices would be the same for any of
 20 the drugs. There's no unique difference between
 21 any of the products.

22 Q. I thank you for that. Go ahead and

49

49

1 any discount or rebate strategies.

2 Q. I am familiar with your testimony
 3 in your previous deposition and you described how
 4 AWP as well as the RFCs were both historically and
 5 since the new management began. You reviewed that
 6 testimony?

7 A. Yes.

8 Q. Do you have anything more to add to
 9 that testimony?

10 A. I do not.

11 Q. I don't want to just be duplicative
 12 in that area.

13 A. I do not.

14 MR. McNEELY: Now, with regard to
 15 the next item number 4. Is that correct?

16 MR. KAUFMAN: Yes.

17 Q. Communications oral or written with
 18 publishers or any of the following. List price
 19 AWP, net price, suggested wholesale price, WACO,
 20 any other communication with publishers.

21 What information can you tell me about
 22 communications to publishers relative to any of

Debra Kane 30(b)6

June 23, 2005

Kenilworth, New Jersey

14 (Pages 50 to 53)

<p>1 those prices?</p> <p>2 A. We provide written communications to the</p> <p>3 third party pricing agencies with respect to</p> <p>4 pricing notifications, whether it's introductory</p> <p>5 pricing or list price changes.</p> <p>6 Q. And that would include AWP pricing?</p> <p>7 A. Historically it did include AWP. The</p> <p>8 company no longer reports AWP.</p> <p>9 Q. When did the company cease</p> <p>10 reporting AWP?</p> <p>11 A. I don't remember. I don't recall the exact</p> <p>12 date.</p> <p>13 Q. I'm not asking for the exact date,</p> <p>14 what year, if you can tell me?</p> <p>15 A. 2003, 2004.</p> <p>16 MR. KAUFMAN: I must say, Mr.</p> <p>17 McNeely, in that box there are documents</p> <p>18 illustrative as to her testimony as to Number 1.</p> <p>19 There's a product log for Intron-A, a document</p> <p>20 that describes the process for setting the price</p> <p>21 of Intron-A. And also some documents that relate</p> <p>22 to changes in price for drugs that have already</p>	50	<p>1 prices were set by Schering-Plough. Is that</p> <p>2 correct?</p> <p>3 A. The net direct price was set by</p> <p>4 Schering-Plough and AWP was merely a calculation</p> <p>5 off of the net direct price. Based upon the net</p> <p>6 direct price.</p> <p>7 Q. What calculation was used by</p> <p>8 Schering-Plough to arrive at an AWP?</p> <p>9 MR. KAUFMAN: Objection. It's</p> <p>10 outside the scope of her designation.</p> <p>11 You may answer for yourself.</p> <p>12 A. Net direct price multiplied by 120 percent.</p> <p>13 MR. McNEELY: Now, if I recall your</p> <p>14 explanations earlier, there are no documents for</p> <p>15 item Number 2.</p> <p>16 MR. KAUFMAN: Yes. That's correct.</p> <p>17 I'm sorry. My earlier comments were confusing.</p> <p>18 Let me clarify my confused comments before.</p> <p>19 The pricing documents to which I referred</p> <p>20 are all within area of inquiry Number 1.</p> <p>21 Number 2, the company does not market or</p> <p>22 sell directly to physicians. Physicians do not</p>	52
<p>1 been launched. That's in a folder labeled number</p> <p>2 one.</p> <p>3 In Number 2, folder labeled number 2, there</p> <p>4 are also communications, written communications</p> <p>5 with pricing services that exemplify the</p> <p>6 description and I believe you will be able to see</p> <p>7 a change from an earlier time when AWP was</p> <p>8 reported, to a later time when AWP was not, which</p> <p>9 may give more indication of when the change</p> <p>10 actually occurred.</p> <p>11 Q. And in connection with the comments</p> <p>12 of your attorney, have you reviewed any of the</p> <p>13 documents that are going to be --</p> <p>14 MR. KAUFMAN: Thankfully, no.</p> <p>15 A. I have not.</p> <p>16 Q. For these introductory</p> <p>17 notifications to publishers, historically, they</p> <p>18 would include both AWP and a list price or net</p> <p>19 direct price. Is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the AWP, and I'll just use net</p> <p>22 direct price, those were prices, both of those</p>	51	<p>1 buy product from the company. So the company has</p> <p>2 no records of the prices paid by physicians for</p> <p>3 company products. That's not something the</p> <p>4 witness is designated to testify to but that's my</p> <p>5 representation to you as the spokesperson for the</p> <p>6 company in this setting. Okay.</p> <p>7 But there are no documents, it's impossible</p> <p>8 for anyone to identify them. There aren't any.</p> <p>9 Q. Miss Kane, is it your understanding</p> <p>10 that Schering-Plough or Warrick does not sell</p> <p>11 directly to physicians or physicians' clinics?</p> <p>12 MR. KAUFMAN: Objection. It's</p> <p>13 outside the scope of her designation.</p> <p>14 You may answer for yourself.</p> <p>15 A. We do not sell directly to physicians.</p> <p>16 Schering-Plough does not sell directly to</p> <p>17 physicians.</p> <p>18 MR. McNEELY: With regard to item</p> <p>19 Number 3, you're not designating her to respond to</p> <p>20 that topic?</p> <p>21 MR. KAUFMAN: That's correct. I've</p> <p>22 given you a list of materials that the sales</p>	53

Debra Kane 30(b)6

Kenilworth, New Jersey

June 23, 2005

15 (Pages 54 to 57)

1 management has told us are the materials that we
 2 would expect to have the salespeople keep but Miss
 3 Kane is not in that function. She can't testify
 4 to that. If, after looking at them, and after
 5 talking to other sales reps, you want someone in
 6 the company, some management in the company to say
 7 that that's the right list, we can provide that.
 8 But Miss Kane isn't the person.

9 Q. This is the list that was handed to
 10 me by Mr. Kaufman. Did you have anything to do
 11 with preparation of that list?

12 MR. KAUFMAN: Objection. It's
 13 outside the scope of her designation.

14 You may answer.

15 A. No. I did not.

16 Q. So that we know, the list will have
 17 a connection with this deposition, I'd like to
 18 have that marked as the next Exhibit Kane 002.

19 (A list of materials is received
 20 and marked as Exhibit Kane 002 for identification.)
 21 (A recess is taken.)

22 Q. Now, with regard to item Number 5,

54

56

1 designation June 16 notice number 2 and this
 2 refers to Albuterol and I am going to -- this is
 3 going to be marked 004.

4 Can you give me the source for that list?

5 A. Again, this would be IMS data.

6 Q. Again, did you prepare that list?

7 A. I did not.

8 Q. How do you know that it's IMS
 9 generated?

10 A. Again, IMS is the source that the company
 11 uses for information like this, purchase the data
 12 from IMS.

13 Q. Do you know who prepared these
 14 lists which is Exhibit Kane 003 and Exhibit Kane 004?

15 A. It is my understanding that Harvey
 16 Weintraub prepared the list.

17 (A list entitled Intron-A,
 18 Immunologic Interferons is received and marked as
 19 Exhibit Kane 003 for identification. A list entitled
 20 Albuterol, Beta Agonist Neb Sol is received and
 21 marked as Exhibit Kane 004 for identification.)

22 Q. With regard to item 7 --

55
 1 the identity and nature of the competitive drug
 2 with respect to each physician administered
 3 AWPID, which is now plaintiffs, identify some of
 4 these drugs or all of these drugs, and I
 5 understand you are going to -- this one is going
 6 to be marked. I've been given two lists. One is
 7 entitled June 16th notice number 5, 1 of 2. And
 8 it refers to Intron-A. And I'm going to have it
 9 marked as number 003 and ask you to look at that
 10 and if you can provide the source of that
 11 particular list?

12 A. This is taken from IMS data.

13 Q. Did you actually make that list?

14 A. I did not.

15 Q. How do you know that it's sourced
 16 with IMS?

17 A. All of the companies data, as it relates to
 18 products and competitive information, is IMS.

19 Q. And that would include

20 Schering-Plough. Is that correct?

21 A. Yes.

22 Q. And the next list is handwritten

55

57

1 MR. KAUFMAN: She's not been
 2 designated on that.

3 MR. McNEELY: You are on behalf of
 4 Schering-Plough, as their attorney, you are
 5 representing that there are documents in this box
 6 that are responsive to that?

7 MR. KAUFMAN: Correct.

8 MR. McNEELY: That would be the same
 9 with regard to 8, 9, 10?

10 MR. KAUFMAN: That's correct.

11 MR. McNEELY: And then we have to
 12 talk about item 11. And then with regard to the
 13 item 12 with the sales representatives, you
 14 earlier stated that that would be produced
 15 momentarily. Are we talking about this morning or
 16 this afternoon?

17 MR. KAUFMAN: I can't say. It's
 18 not I who is preparing it but it was supposed to
 19 have been prepared before now to give to you right
 20 now and I don't know why it hasn't been but it
 21 can't take very long to do. So I can't say it
 22 will be today, because I don't know, but it will

EXHIBIT J

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

1

1 HIGHLY CONFIDENTIAL TRANSCRIPT

2 UNITED STATES DISTRICT COURT

3 DISTRICT OF MASSACHUSETTS

4

CERTIFIED COPY

5

6 IN RE:)MDL NO. 1456

7 PHARMACEUTICAL INDUSTRY)Civil Action No. 01-CV-12257-PBS

8 AVERAGE WHOLESALE PRICE)

9 LITIGATION)

10)

11 VIDEOTAPED DEPOSITION OF JEROME A.

12 SHERMAN, called as a witness on behalf of

13 the Plaintiffs, pursuant to the applicable

14 provisions of the Federal Rules of Civil

15 Procedure, before Jeanette N. Maracas,

16 Registered Professional Reporter and Notary

17 Public in and for the Commonwealth of

18 Massachusetts, at the Offices of Ropes &

19 Gray, LLP, One International Place, Boston,

20 Massachusetts, on Thursday, July 7, 2005,

21 commencing at 9:12 a.m.

22

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

119

1 1997. If you would take a look at that and
2 tell me if that is something you received
3 and whether you use that in connection with
4 your duties as a national sales director
5 for Warrick Pharmaceuticals.

6 A. (Witness examines document) This has to
7 do more with advertising, promotional
8 documents that would be going into
9 advertising or used in a detail aid, FDA
10 guides. I don't get involved in any of
11 this.

12 Q. Have you ever received a copy of that
13 document in the past?

14 A. No, I haven't.

15 Q. Are there any procedure or practice manuals
16 other than what you've seen here that I've
17 just shown you that directs the activities
18 of the Warrick Pharmaceuticals national
19 sales directors?

20 MR. CHRISTOFFERSON: Objection. You
21 may answer.

22 A. I'm not sure whether we haven't had a

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

120

1 revision to the Warrick practices, like I
2 said, two, three years ago.

3 Q. Is that the manual that you referred to that
4 you rarely resort to?

5 A. I mean, I have been with Schering for a
6 number of years and policies do change, and
7 I'm aware of the policies as they change
8 and live by those policy changes. So when a
9 policy change occurs, I know about it and
10 follow those rules.

11 Q. How are you notified of changes in policy?

12 A. I get documents from home office.

13 Q. Do you preserve those documents, notices
14 from the home office relative to changes in
15 policy?

16 A. I don't have them. Yes, I suppose we do.

17 Q. When was the last time you received that
18 type of document, a notice of a change in
19 policy?

20 A. It was a few years ago when we got a change
21 in entertainment, what we could spend on
22 entertainment or what we could spend on

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

121

1 meals on the road, things of that nature,
2 and this is Warrick I'm talking about.

3 Q. Do you have a folder or file where you
4 have maintained those notices of change in
5 policy?

6 A. No, I don't.

7 Q. The price change notices that we have looked
8 at and marked as exhibits in this case, in
9 this deposition, that is a type of notice
10 that you send out on a regular basis; is
11 that not correct?

12 MR. CHRISTOFFERSON: Objection. You
13 may answer.

14 A. When a price change occurs, certainly.

15 Q. And would it be fair to say that that happens
16 many times a year where you send out that
17 type of notice to all your accounts?

18 A. Only to those accounts that require a price
19 change.

20 Q. And all of those notices, as far as you
21 can testify to, would include the price as
22 well as the new price as well as the AWP;

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

122

1 is that correct?

2 MR. CHRISTOFFERSON: Objection. You
3 may answer.

4 A. I haven't seen the AWP on those documents
5 for very long time.

6 Q. When was the last time that you saw a
7 document notifying a price change where
8 AWP was not listed?

9 A. Repeat that, please.

10 Q. You said that you hadn't seen AWP on a
11 price change document in a very long time.
12 When did you start sending out price chang
13 notices without AWP on it?

14 A. I don't remember when that occurred.

15 (Exhibit Sherman 030 marked for
16 identification.)

17 Q. Mr. Sherman, you've been handed a document
18 that has been marked Exhibit Sherman 030?

19 A. Yes.

20 Q. And this is a price change notification
21 from you to one of your accounts; is that
22 correct?

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

123

1 A. Yes.

2 Q. And the effective date on this price change
3 is, appears to be May 8 of 2000. Is that
4 how you read this document?

5 A. Yes.

6 Q. So as recent as, or at least the year 2000,
7 AWP was still being reported or shown
8 on price change notifications; is that
9 correct?

10 MR. CHRISTOFFERSON: Objection. You
11 may answer.

12 A. Yes.

13 Q. With regard to the spread, the difference
14 between the AWP and the direct price as
15 shown on this, is it not correct that as
16 the AWP -- strike that.

17 Would you agree that where the AWP
18 remains the same and the direct price is
19 decreased, that there's an increase in the
20 spread?

21 MR. CHRISTOFFERSON: Objection. You
22 may answer.

Jerome A. Sherman HIGHLY CONFIDENTIAL
Boston, MA

July 7, 2005

124

1 A. Yes.

2 Q. And also, if the direct price is subject to
3 any rebates that would result in a decreased
4 price per unit, that would also result in a
5 spread; is that correct?

6 MR. CHRISTOFFERSON: Objection. You
7 may answer.

8 A. Yes.

9 Q. Now, having looked at this last exhibit,
10 which is in May of -- apparently, effective
11 date of the price change in May of 2000,
12 does that help or refresh your memory in
13 any way as to when AWP was discontinued
14 as an item on a price change notice?

15 A. No, it doesn't. It was, obviously,
16 subsequent to this time frame.

17 Q. Mr. Sherman, are you familiar with a term,
18 "nominal pricing," for purposes of either
19 contracts or for selling product on behalf
20 of Warrick Pharmaceuticals?

21 A. I've heard the term.

22 Q. What is your understanding of nominal